



C. L. "BUTCH" OTTER
GOVERNOR

July 29, 2011

Jennifer Brown-Scott
Refuge Manager
Deer Flat National Wildlife Refuge
13751 Upper Embankment Road
Nampa, ID 83686

RE: Deer Flat National Wildlife Refuge, Comprehensive Conservation Plan (CCP)

Dear Jennifer,

This letter is to inform you of the State of Idaho's strong opposition to the proposed Deer Flat National Wildlife Refuge CCP.

Although it now is a wildlife refuge, wildlife and recreation have co-existed with irrigation throughout the life of the Deer Flat project. In fact, irrigation was the original purpose of Lake Lowell. As a Bureau of Reclamation project, preservation of wildlife habitat is secondary to the water rights owned by irrigators. What's more, State water law supersedes wildlife habitat at Deer Flat Refuge – particularly the Lake Lowell unit – and the Board of Control and Bureau of Reclamation manage the appropriation and distribution of the water for the benefit of the surrounding area.

Make no mistake: The responsibility and jurisdiction to manage fish and resident wildlife belong to the State of Idaho. The U.S. Fish and Wildlife Service must recognize that all Idaho wildlife is the property of the State of Idaho (*Idaho State Code 36-103*) and must not create a competing management regime.

I was raised in Canyon County. I know there has been cooperative, multiple-use management of the reservoir since the project was completed in 1909. If the current use of the manmade reservoir, which includes a multitude of recreation activities, has produced such a high-quality wildlife refuge, then it makes sense for those activities to continue. The State of Idaho strongly prefers that the existing management strategy at the Deer Flat National Wildlife Refuge remain in place.

Thank you for the opportunity to provide comments, and for your positive consideration to them.

As Always – Idaho, "Esto Perpetua"

A handwritten signature in black ink, reading "C.L. Butch Otter".

CLO/sg

C.L. "Butch" Otter
Governor of Idaho



IDAHO DEPARTMENT OF FISH AND GAME

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C.L. "Butch" Otter / Governor
Virgil Moore / Director

July 20, 2011

Jennifer Brown-Scott, Refuge Manager
Deer Flat National Wildlife Refuge
13751 Upper Embankment Road
Nampa, ID 83686

RE: Draft Alternatives – Deer Flat National Wildlife Refuge CCP

The Idaho Department of Fish and Game (Department) has reviewed the proposed draft alternatives developed as part of the Comprehensive Conservation Plan (CCP) for the Deer Flat National Wildlife Refuge (Refuge). The CCP will provide management direction for the Refuge for the next 15 years, including both the Lake Lowell Unit and the Snake River Islands Unit. Preliminary goals for the CCP include conservation and restoration of habitats, protection of feeding, resting, and breeding areas for migratory birds, inventory and monitoring of priority species and habitats, and provision of a variety of high-quality wildlife-oriented recreational activities, including fishing, hunting, wildlife viewing, and wildlife photography.

Three draft action alternatives and one no-action alternative have been developed. The action alternatives vary in the type, timing, and distribution of human activities that would be allowed on the refuge, particularly the Lake Lowell segment. All draft action alternatives would emphasize wildlife dependent public uses over non-wildlife-dependent uses.

General Comments

The Idaho Department of Fish and Game (Department) is the state agency entrusted with statutory authority to preserve, protect, perpetuate, and manage fish and wildlife resources in the State of Idaho (Idaho Code § 36-103(a)). Furthermore, public Law 105-57, the National Wildlife Refuge System Act of 1997 states:

(m) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans.

The Department considers management of resident fish and wildlife on refuge system lands to be State of Idaho jurisdiction. We anticipate a cooperative working relationship with Refuge staff in managing fish and wildlife on and around Refuge lands for the benefit of fish and wildlife resources, as well as fish and wildlife dependent activities.

Specific Comments

Angler access and boating:

The Department recognizes that the Refuge has an interest in minimizing disturbance to waterfowl and other migratory wildlife caused by wake-creating activities or other disruptive activities near overwater nesting colonies or other sensitive areas. The draft alternatives, including the preferred alternative, propose broad restrictions on all wake-causing activities in addition to closing the east end of the lake (current no-wake zone) to any human entry.

Continued motorized boating access for recreational angling is important to the public and consistent with State fisheries management objectives for Lake Lowell. The Department requests that boating access for sportfishing be managed independently from other types of motorized boating and non-wildlife dependent recreation. It is our understanding that the primary conservation concerns and conflicts with wake-creating recreation are related to disturbance of overwater nesting birds and possibly disruption of foraging activities for some species. The Department believes that boat travel and boat angling can be managed to promote Refuge objectives without imposing broad no-wake zones or closed areas. As an example, all boat travel could be restricted to no-wake speeds within 100 yards (or some appropriate distance) from shorelines or emergent macrophyte beds, and sensitive or nesting areas could be posted seasonally as closed to all entry. This would substantially reduce disturbance in key habitats but still permit efficient travel across the lake or between fishing locations. The existing no-wake zone is generally accepted by boaters and, based on Refuge staff descriptions, already provides important nesting, foraging, and loafing habitat for a variety of migratory species. The Department suggests that this area should continue to be managed as a no-wake zone and should remain accessible to motorized angling activities with additional seasonal closures around sensitive or nesting areas if needed.

Shoreline access for angling at Lake Lowell is quite limited due to the extensive emergent macrophyte beds. The Department strongly supports developing additional fishing access facilities at Gotts Point and other areas. The south side access areas are also important for bank and wade anglers, and as launches for float tubes or other non-motorized angling. To protect the emergent beds (and presumably their value as nesting and foraging habitat) one management alternative included closure of all south-side shorelines to walk-in traffic, including angling. The Department suggests that this would be unnecessarily restrictive. Bank anglers and non-motorized boating anglers would be expected to have no measurable impacts to emergent beds. As with power boating conflicts, it seems reasonable to identify and post off-shore nesting colonies and other key areas as closed seasonally to entry, while still permitting banks and near-shore angling in most locations.

Fish management / jurisdiction:

Lake Lowell is an off-channel artificial reservoir. There are no fish or other aquatic resources native to the location, and all fish species present were either introduced intentionally or delivered through various canal inputs. The sport fishery is managed for warmwater fish and is comprised entirely of introduced species. Department management direction is driven by a statewide Fisheries Management Plan, developed through public input along with federal, state, and local agency input, and approved by the Idaho Fish and Game Commission. With no other plans or agreements in place, the Department feels this is the guiding policy document for fisheries management at Lake Lowell.

The Department's fishery management activities on Lake Lowell extend beyond the recent studies on common carp. These include periodic fish community assessments, larval fish production monitoring, annual stocking of channel catfish, periodic supplementation with adult crappie or other sportfish species, angler use surveys, tournament monitoring, and enforcement of fish and wildlife harvest regulations. Some of these activities will occur on Lake Lowell when boating is closed to the general public.

It has been suggested that fishery management plans for Lake Lowell would be incorporated as a step-down plan identified in the CCP process, and that fishery management objectives would then become part of the broader Refuge objectives. Fish management activities would undergo USFWS review to determine compatibility with the Refuge mission. The Department feels that such a planning strategy would be both inappropriate and unnecessary. Existing laws and policies for the National Wildlife Refuge System clearly acknowledge that States retain authority and jurisdiction to manage fish and resident wildlife, and include provisions for developing cooperative agreements between states and refuges which would serve to clarify authority and jurisdiction. The product of the CCP process should not include a specific fisheries management plan, but rather a commitment to develop a cooperative agreement with the State of Idaho for resident fish and wildlife management. The Department feels strongly that responsible fish management to benefit the angling public will result in fish communities that also provide benefits consistent with refuge objectives (e.g. forage for piscivorous birds).

Department staff have met with Refuge staff on several occasions. It is the Department's understanding that certain features common to all draft action alternatives would be removed. Specifically, it is our understanding that the proposal to require lead-free fishing tackle, as well as the requirement for barbless hooks for catch-and-release bass tournaments will be removed from the alternatives.

Deer Management – Lake Lowell Segment:

Mule deer populations on and around the Lake Lowell segment of the Refuge have been a growing issue with the Department for several years. Lack of cooperative assistance regarding deer management on Refuge lands has resulted in a rising deer population that has led to agricultural depredation issues on surrounding private lands and financial hardship to adjacent agriculture producers. The Lake Lowell deer seek sanctuary on Refuge lands during the day,

move onto agriculture fields at night to feed, and return to the Refuge in the morning. Deer cross public roads in the process and deer/vehicle collisions have occurred as a result.

The Department is legislatively mandated to assist landowners in eliminating or minimizing crop damage by deer. Lack of more intensive deer management options on the Lake Lowell sector significantly reduces our ability to comply with state law. Currently, Department staff are attempting to address deer depredation by issuing kill permits to land owners and/or dispatching depredating deer at night when they are on private lands. This approach has had limited success in addressing deer depredation.

Regulated public hunting is recognized by the Department as a viable, effective and inexpensive wildlife management tool. The Department prefers to have hunters assist with deer management where appropriate rather than have Department employees attempt to harvest deer at a significant cost of time and resources, particularly where the opportunity for a high-quality public hunt exists. We would also prefer to have deer harvested in the fall and early winter rather than the spring and summer when they are heavy with fawns or have fawns that have not yet been weaned. Big game hunting is also considered an approved wildlife-dependent activity by the Fish and Wildlife Service. Several USFWS refuges around the nation find big game hunting compatible with other refuge activities and refuge missions. Many refuges use deer hunting to specifically assist with reducing crop damage to nearby agricultural fields. They work cooperatively with fish and game agencies and affected neighbors to reduce the population to an acceptable level. The Service is currently proposing to allow big game hunting on an additional eight wildlife refuges throughout the U.S.

Potential management ideas to hold deer on Refuge lands in the spring include habitat management to provide high quality spring forage within the Lake Lowell segment and creation of diversity within the cottonwood forest surrounding Lake Lowell that would provide deer high ground away from spring flooding. In addition, permitted harassment of deer on the Refuge could be a tool to drive depredating deer off the refuge for control measures or public harvest opportunities in the fall and winter.

Section 5 of the National Wildlife Refuge System Act of 1997 (Act) states that the Secretary shall “(E) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located”. We believe that the direction called for in the Act provides the direction for Refuge staff to work cooperatively with the Department to address deer management issues on the Lake Lowell segment. The Department has attempted to work with past Refuge staff to address deer management on the Lake Lowell segment. At that time we were told the Service would address the issue during the CCP process. It is our understanding that it will not be addressed during this CCP process, but that it will be addressed as a separate decision at a future time. We believe this issue needs to be addressed now. The Department requests a cooperative management relationship with Refuge staff to address not only deer management issues but rather all wildlife related management issues.

Waterfowl and Upland Hunting:

Under current management 2,250 acres are available for waterfowl and upland hunting on the Lake Lowell segment. Proposed action alternatives would reduce the available acreage for waterfowl hunting by 20-42% and upland hunting by 82-100%. The Department considers the approach in the proposed alternatives to be unnecessary and a severe limitation on approved wildlife-dependent uses. An additional concern raised by Refuge staff is overcrowding during the waterfowl hunting season. Reduction in the availability of waterfowl hunting areas will likely exacerbate this problem. We offer the following alternatives:

1. The draft action alternatives attempt to separate upland hunters from waterfowl hunters spatially on the Lake Lowell segment by keeping areas open to only one type of hunting. The Department suggests instead that upland and waterfowl hunters be separated temporally by limiting the start time of upland hunting to 10:00 AM where conflicts exist. This allows waterfowl hunters the opportunity to hunt the productive early morning hours while providing ample opportunity for upland hunters after the majority of morning waterfowl hunting has ended. Several of the Department's wildlife management areas are successfully managed in this manner.
2. Action alternatives two and three propose a boardwalk trail between parking lots one and three of the Lake Lowell segment. Neither waterfowl nor upland hunting would be allowed in this area under these alternatives. The Department suggests that if an alternative is chosen that includes this trail, that it be closed seasonally to allow waterfowl and upland hunting to continue along this portion of the lake. A similar approach could be used for the existing trail on the north shore at the east end of Lake Lowell if conflicts exist or arise in the future.

The Department considers a permit system to regulate waterfowl hunter numbers to be a last resort. Waterfowl hunters are currently limited by parking availability and the Department does not perceive a need to limit access at this time.

The Department recommends the adoption of the waterfowl youth hunt as proposed in Alternative 2. Youth hunts directly assist the Department in meeting our objective of providing fishing and hunting opportunities for beginners.

The Department believes that the shell limit proposed by Refuge staff is of limited value in addressing the issue of "sky busting" and may create more problems than it solves. It has been our experience that hunters operating under a shell limit are less likely to retrieve wounded waterfowl if additional shells are needed to dispatch that bird. Additionally, our experience has been that legislating ethics in hunting and fishing is a difficult and often unsuccessful endeavor. We recommend that options other than a shell limit be explored for addressing this issue.

Habitat Management:

The Department supports efforts aimed at habitat restoration. However, the draft alternatives refer to the use of native vegetation in habitat management and improvement. The Department

encourages the Service to use the term desirable vegetation in place of native. While native only vegetation is the best outcome, we believe that habitat restoration and enhancement will be more successful if desirable non-native vegetation is a part of the solution to achieve habitat function objectives. Some species of desirable non-native plants are better able to compete against non-native, non-desirable species. The Department is available to assist Refuge staff with species selection and seed mixes.

The Department recommends that the issue of cottonwood enhancement and recruitment be added to *Objective 2.1 Enhance, maintain, and protect riparian forest – Lake Lowell*. The habitat value of these riparian forests is largely a function of mature cottonwoods. The current cottonwood population is even-aged and beginning to deteriorate as mature trees die. We expect this trend to accelerate. Conditions conducive to cottonwood recruitment (primarily soil scouring) are not occurring in the riparian forests around Lake Lowell and the Department believes that active management will be needed to assure cottonwoods are present in the future.

Snake River Islands Segment:

The management success of the Snake River Islands Unit of the Refuge has been demonstrated by their popularity with hunters and anglers. We support the Refuge's goals of enhancing and maintaining habitats on the islands, as well as seasonal closures to provide security for bird nesting and brood rearing activities.

We recommend that the Refuge consider the use of regulated furbearer trapping to address waterfowl nest predation if waterfowl production goals are not being met.

It is unclear if turkey hunting on the Snake River Islands Segment is currently available under Refuge policy for upland bird hunting. The Department requests that fall turkey hunting on the Snake River Island Segment be retained or added to Refuge policy for upland birds. The Department anticipates a growing turkey population on the Snake River islands in the future and regulated hunting is a management tool we would like to have available.

Thank you for consideration of the Department's comments. If you have questions or need further information, please feel free to contact Scott Reinecker, Southwest Regional Supervisor at (208) 465-8465, or via e-mail at scott.reinecker@idfg.idaho.gov.



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July 27, 2011

Jennifer Brown-Scott, Refuge Manager
Deer Flat National Wildlife Refuge
13751 Upper Embankment Rd.
Nampa, ID 83636

RE: Deer Flat CCP Preliminary Management Alternatives

Dear Ms. Brown-Scott:

The Idaho Department of Parks and Recreation (IDPR) staff reviewed the Deer Flat Comprehensive Conservation Plan (CCP) Preliminary Management Alternatives. The U.S Fish and Wildlife Service (USFWS) is revising the CCP for the Deer Flat National Wildlife Refuge.

The IDPR prefers the existing management strategy. The existing management allows for a variety of recreation activities to occur. The CCP will change this existing management, however, the preferred alternative needs to provide more access for water based recreation.

The planning newsletter indicated that "In order to officially allow recreation and other uses to occur on refuges, activities must be found to be appropriate and compatible with the purpose of the refuge." Motorized activities can be a means of transport for those recreationists participating in a wildlife based recreation activity like fishing, wildlife watching, and hunting.

When a recreation party is motor boating, viewing wildlife can be a secondary activity that enhances the motor boating experience. Motor boating recreationists also participate in fishing and hunting."

The USFWS has presented 3 different preliminary alternatives. All of the management alternatives greatly reduce or eliminate motor boating access on Lake Lowell.

The IDPR has invested \$284,056.33 in Waterways Improvement Fund (WIF) grants at Lake Lowell. These grants were awarded to Canyon County. Depending on which management actions are taken, the USFWS could affect these grants.

The planning newsletter indicated that USFWS would begin to charge visitor use fees at Lake Lowell. Our grant rules require USFWS to seek approval from the Idaho Department of Park and Recreation Board before charging fees.

Some alternatives create a no-wake zone over the entire lake or expand the existing no-wake zone so it covers the Upper Dam Boat Launch Facility. This action would significantly reduce the effectiveness of the Upper Boat Launch for motorized boaters. This action would be a conversion of use according our grant rules.

When the County accepts IDPR grant funds, the County agrees to abide by IDAPA Rules. As a part of these rules, the County is obligated to maintain and operate the facility (boat launch) for the intended grant use (motor boat launching and parking) for the lifetime of the facility (IDAPA 26.01.31.300.04). If the agency is unable to maintain or operate the boat launch, then a grant conversion results (IDAPA 26.01.31.350).

Our grant rules governing conversions are specific. IDPRA 26.01.31.350 states "No grant funded project shall, without the prior written approval of the Board, be converted to uses other than for the authorized purposes specified in the original grant application or grant agreement."

Fortunately, we do see a way that the USFWS can successfully manage the refuge without significantly reducing boating access. The present preliminary alternatives do not offer adequate boat access.

The preferred alternative should establish a no wake buffer zone of 200 feet mean average from the riparian or emergent weed bed edge on the entire south side including Murphy's Neck. Access inside the no wake buffer zone will be seasonal. We have attached a map showing what this alternative would look like.

The IDPR agrees with the Idaho Bass Federation and generally recommends their proposal to access to the no wake buffer zone will be open from 3/15 to 5/30 and closed to all access from 6/1 to 7/15 of each year. The purpose of the closure period is to accommodate indigenous bird and wildlife species requiring undisturbed riparian and emergent weed bed nesting habitat that is unique to the lake. The emergent weed bed should re-open inside the no wake buffer zone and Murphy's Neck from 7/16 to 9/30 of each year.

The preliminary alternative in the newsletter also places a time restriction on the wake zone. This time restriction should be modified to allow motorboat use from ½ hour before sunrise to ½ hour after sunset (day light).

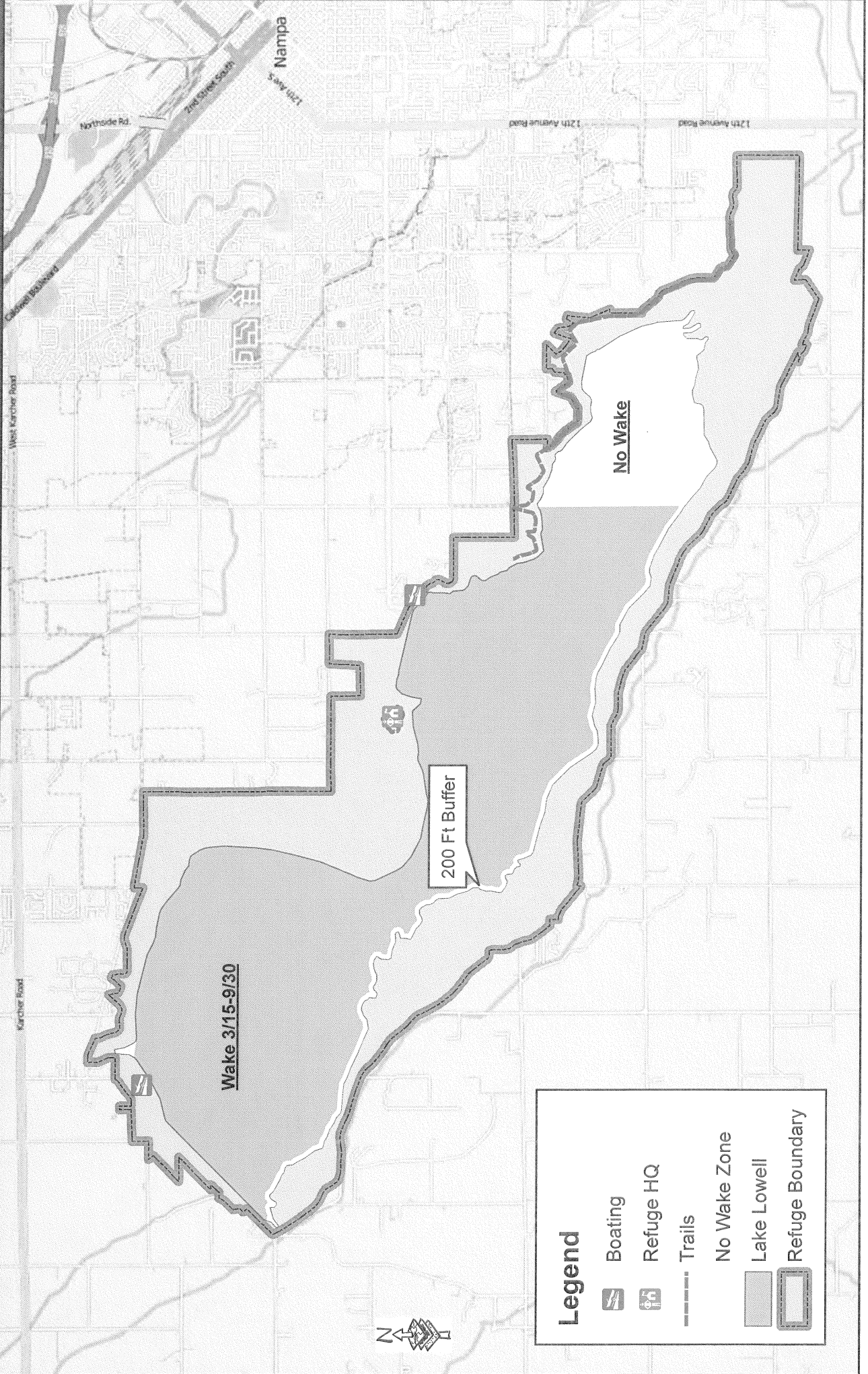
We appreciate the opportunity to comment on these preliminary alternatives. The USFWS needs to take into account motor boaters and fishing access to Lake Lowell. This lake is the only large body of water in Canyon County. Restricting boating access would severely impact Canyon County boaters.

Thank you for the opportunity to comment on these management alternatives. If you have any questions about our comments, please contact Jeff Cook, Outdoor Recreation Analyst at (208)-514-2483 or via e-mail at Jeff.Cook@idpr.idaho.gov.

Enclosure



Deer Flat National Wildlife Refuge - Lake Lowell Unit - Canyon County, Idaho



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1:65,000